

108TH CONGRESS  
1ST SESSION

# H. R. 1684

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2003

Mr. CANNON (for himself, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. BONILLA, Mr. DREIER, Mr. GEORGE MILLER of California, Ms. ROS-LEHTINEN, Mr. HOYER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. GUTIERREZ, Mr. MARIO DIAZ-BALART of Florida, Mr. WU, Mr. NUNES, Ms. JACKSON-LEE of Texas, Mrs. WILSON of New Mexico, Mr. RODRIGUEZ, Mr. WELLER, Mr. DOOLEY of California, Ms. HART, Mr. MENENDEZ, Mr. KING of New York, Mr. PASTOR, Mr. TIAHRT, Mr. MATHESON, Mr. SMITH of New Jersey, Mr. McNULTY, Mr. RENZI, Ms. LINDA T. SÁNCHEZ of California, Mr. SHAYS, and Ms. SOLIS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine state residency for higher education purposes and to amend the Immigration and Nationality Act to cancel the removal and adjust the status of certain alien college-bound students who are long-term U.S. residents.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Student Adjustment  
5       Act of 2003”.

6       **SEC. 2. RESTORATION OF STATE OPTION TO DETERMINE**  
7                       **RESIDENCY FOR PURPOSES OF HIGHER EDU-**  
8                       **CATION BENEFITS.**

9       (a) IN GENERAL.—Section 505 of the Illegal Immi-  
10      gration Reform and Immigrant Responsibility Act of 1996  
11      (division C of Public Law 104–208; 110 Stat 3009–672;  
12      8 U.S.C. 1623) is repealed.

13      (b) EFFECTIVE DATE.—The repeal made by sub-  
14      section (a) shall take effect as if included in the enactment  
15      of the Illegal Immigration Reform and Immigrant Respon-  
16      sibility Act of 1996.

17      **SEC. 3. ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM**  
18                       **RESIDENT STUDENTS.**

19      (a) IN GENERAL.—Section 240A of the Immigration  
20      and Nationality Act (8 U.S.C. 1229b) is amended—

21                       (1) in paragraph (3) of subsection (b)—

22                               (A) by striking “paragraph (1) or (2)” and  
23                       inserting “paragraph (1), (2), or (3)” each  
24                       place it appears;

1 (B) by redesignating such paragraph as  
2 paragraph (5); and

3 (C) by moving such paragraph to follow  
4 paragraph (4);

5 (2) by inserting after paragraph (2) of sub-  
6 section (b) the following new paragraph:

7 “(3) SPECIAL RULE FOR CHILDREN IN MIDDLE  
8 OR SECONDARY SCHOOL.—

9 “(A) AUTHORITY.—Subject to subpara-  
10 graph (B), the Secretary of Homeland Security  
11 shall cancel removal of, and adjust to the status  
12 of an alien lawfully admitted for permanent res-  
13 idence, an alien who is inadmissible or deport-  
14 able from the United States if the alien dem-  
15 onstrates that—

16 “(i) the alien has not, at the time of  
17 application, attained the age of 21;

18 “(ii) the alien was physically present  
19 in the United States on the date of the en-  
20 actment of the Student Adjustment Act of  
21 2003 and has been physically present in  
22 the United States for a continuous period  
23 of not less than five years immediately pre-  
24 ceding the date of such application;

1 “(iii) the alien has been a person of  
2 good moral character during such period;  
3 and

4 “(iv) the alien, at the time of applica-  
5 tion, is enrolled at or above the 7th grade  
6 level in a school in the United States or is  
7 enrolled in or actively pursuing admission  
8 to an institution of higher education in the  
9 United States as defined in section 101 of  
10 the Higher Education Act of 1965 (20  
11 U.S.C. 1001).

12 The Secretary of Homeland Security shall pro-  
13 vide a procedure by regulation allowing eligible  
14 individuals to apply affirmatively for the relief  
15 available under this paragraph without being  
16 placed in removal proceedings. An alien shall  
17 not be considered to have failed to maintained  
18 continuous physical presence in the United  
19 States for purposes of clause (ii) by virtue of  
20 brief, casual, and innocent absences from the  
21 United States.

22 “(B) RESTRICTIONS ON AUTHORITY.—The  
23 provisions of this paragraph shall not apply to  
24 any of the following aliens:

1 “(i) An alien who is inadmissible  
2 under section 212(a)(2)(A)(i)(I) or is de-  
3 portable under section 237(a)(2)(A)(i) (re-  
4 lating to crimes of moral turpitude), unless  
5 the Secretary of Homeland Security deter-  
6 mines that the alien’s removal would result  
7 in extreme hardship to the alien, the  
8 alien’s child, or (in the case of an alien  
9 who is a child) to the alien’s parent.

10 “(ii) An alien who is inadmissible  
11 under section 212(a)(3) or is deportable  
12 under section 237(a)(2)(D)(i) or  
13 237(a)(2)(D)(ii) (relating to security and  
14 related grounds).”; and

15 (3) in subsection (d)(1)(A), by inserting “or  
16 (b)(3)” after “subsection (b)(2)”.

17 (b) EXEMPTION FROM NUMERICAL LIMITATIONS.—  
18 Section 240A(e)(3) of such Act (8 U.S.C. 1229b(e)(3))  
19 is amended by adding at the end the following new sub-  
20 paragraph:

21 “(C) Aliens described in subsection  
22 (b)(3).”.

23 (c) GRANDFATHER PROVISIONS.—For purpose of ap-  
24 plying section 240A(b)(3) of the Immigration and Nation-  
25 ality Act (as inserted by subsection (a)) with respect to

1 an application filed under such section not later than 120  
2 days after the effective date of regulations implementing  
3 this section—

4 (1) an individual shall be considered to be  
5 under the age of 21 if the individual's 21st birthday  
6 occurs after the date of the enactment of this Act  
7 but no more than 120 days after the effective date  
8 of such regulations; and

9 (2) an individual shall be treated as meeting the  
10 requirements of clauses (i), (ii), and (iv) of subpara-  
11 graph (A) of such section if—

12 (A) the individual would have met such re-  
13 quirements based upon an application filed at  
14 any time during the 4-year period ending on the  
15 date of the enactment of this Act; and

16 (B) the individual has graduated from, or  
17 is at the time of application enrolled in, an ac-  
18 credited institution of higher education in the  
19 United States (described in clause (iv) of such  
20 subparagraph).

21 (d) CONFIDENTIALITY OF INFORMATION.—Neither  
22 the Secretary of Homeland Security, nor any other official  
23 or employee of the Department of Homeland Security or  
24 other Department, bureau, or agency of the United States,  
25 may—

1           (1) use the information furnished by the appli-  
2           cant pursuant to an application filed under the  
3           amendments made by this section for any purpose  
4           other than to make a determination on the applica-  
5           tion;

6           (2) make any publication whereby the informa-  
7           tion furnished by any particular individual can be  
8           identified; or

9           (3) permit anyone other than the sworn officers  
10          and employees of the Department of Homeland Se-  
11          curity or bureau or agency or, with respect to appli-  
12          cations filed with a designated entity, that des-  
13          ignated entity, to examine individual applications.

14       Whoever knowingly uses, publishes, or permits informa-  
15       tion to be examined in violation of this subsection shall  
16       be fined not more than \$10,000.

17       (e) ELIGIBILITY OF CANCELLATION APPLICANTS FOR  
18       FEDERAL EDUCATIONAL ASSISTANCE.—Section 431(b) of  
19       the Personal Responsibility and Work Opportunity Rec-  
20       onciliation Act of 1996 (8 U.S.C. 1641(b)) is amended—

21           (1) by striking “; or” at the end of paragraph  
22           (6) and inserting a comma;

23           (2) by striking the period at the end of para-  
24           graph (7) and inserting “, or”; and

1           (3) by adding at the end the following new  
2 paragraph:

3           “(8) an alien who has been granted relief under  
4 section 240A(b)(3) of the Immigration and Nation-  
5 ality Act, or with respect to whom an application  
6 under such section has been filed but not finally  
7 been adjudicated.”.

8 (f) REGULATIONS.—

9           (1) PROPOSED REGULATIONS.—Not later than  
10 60 days after the date of the enactment of this Act,  
11 the Secretary of Homeland Security shall publish  
12 proposed regulations implementing this section.

13           (2) INTERIM, FINAL REGULATIONS.—Not later  
14 than 120 days after the date of the enactment of  
15 this Act, the Secretary of Homeland Security shall  
16 publish final regulations implementing this section.  
17 Such regulations shall be effective immediately on an  
18 interim basis, but are subject to change and revision  
19 after public notice and opportunity for a period for  
20 public comment.

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